

REMARKS

This Amendment is filed in response to the Final Office Action mailed Dec. 8, 2006. The Applicant respectfully requests reconsideration of the objections and rejections presented therein. All objections and rejections are respectfully traversed.

Claims 20-41 are pending in the case.

A claim numbering typographical error has been corrected, with a duplicitously numbered claim 34 renumbered as claim 41, and moved to the end of the claim listing. More detail regarding this correction is presented below.

No claims have been amended.

No new claims have been added.

Claim Numbering Typographical Error

The Applicant has noticed there was a claim numbering typographical error in the case, with two different claims both numbered as claim 34. The error appears to have not been noticed by the Examiner or the Applicant until this time. To correct the error, the Applicant has renumbered the first of the two claim 34's to be numbered claim 41, and has moved the claim to the end of the claim listing. By correcting the error in this manner, the wholesale renumbering of the claims is avoided.

As claim 41 was previously examined (as claim 34), and indeed previously indicated allowable if rewritten in independent form by the Examiner, the Applicant has used the status identifier "PREVIOUSLY PRESENTED."

If the Examiner believes there is any issue raised by this correction, the Examiner is invited to contact the Applicant's attorney at 617-951-2500 with hopes a solution may be agreed upon.

Claim Rejections - 35 U.S.C. §102

At paragraphs 1-2 of the Final Office Action, claims 20-23, 25, 28, 29, 31, 33, 35, 37 and 40 were rejected under 35 U.S.C. §102 as anticipated by Gai et al., U.S. Patent No. 6,031,194 (hereinafter Gai).

The Applicant notes that Gia was filed on Dec. 24, 1997, approximately 11 month before the Applicant's priority date. While the Applicant does not admit Gia has actual prior art status, even assuming arguendo Gia is prior art, the reference would not anticipate the Applicant's claims as explained below.

The Applicant's claim 20, representative in part of the other rejected claims, sets forth:

20. A computer readable medium containing executable program instructions for use by an intermediate network device having a plurality of ports for receiving and forwarding network messages, the executable program instructions comprising program instructions for:

- configuring one or more ports as access ports;
- configuring one or more access ports as rapid forwarding ports;
- identifying all ports that have been configured as access ports with rapid forwarding; and

upon initialization of the device, placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states, so that network messages may be received and forwarded by such identified ports immediately.

Gia discloses a method and apparatus for rapidly reconfiguring a computer network. See abstract. ***“Upon start-up, the ports of each switch 230, such as switch 214, are initially placed in the listening state*** and spanning tree engine 235 begins formulating and transmitting bridge protocol data units (BPDU) frames.” See col. 10, lines 1-4 (emphasis added to quotation). Eventually, “the spanning tree algorithm will converge.” See col. 10, lines 22-25. At that point, “only one port (local or trunk) that represents a path from the access switch to the root... will be forwarding. All other ports (local or trunk) that represent paths from the access switch to the root will be blocked.” see col.

11, lines 8-15. “[O]ne or more of the blocked ports are designated as backup ports.

Upon detection of a failure at the active forwarding port, the state of one of the blocked ports immediately transitions from blocked to forwarding...the selected back-up port does not transition through any intermediary states (such as to listening or learning states).” See col. 5, lines 40-50 and col. 12, lines 32-42 (emphasis added to quotation).

The Applicant respectfully urges that Gia does not suggest at least the Applicant’s claimed “upon initialization of the device, placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states.”

Gia makes clear that “[u]pon start-up, the ports of each switch 230, such as switch 214 are initially placed in the listening state,” **not** directly into the forwarding spanning tree port state as the Applicant has claimed. See Gia col. 10, lines 1-4.

Gia’s does discuss elsewhere not transiting through any intermediary states (such as to listening or learning states) in other circumstance. This discussion relates to transitioning back-up ports to the forwarding state upon detection of the failure of an active forwarding port. Typically, such an event will occur long after initialization. The Office Action at page 3 attempts to equate the Applicant’s claimed “upon initialization of the device” with Gia’s “detect link failure.” The Applicant respectfully request reconsideration of this interpretation. These phrases have clearly different meanings, and one skilled in the art would recognize a response to one of these circumstances would not necessarily be appropriate in the other.

Accordingly, the Applicant respectfully urges that Gia is legally insufficient to anticipate the present claims under 35 U.S.C. §102 because of the absence of the Applicant’s claimed novel “upon initialization of the device, placing each identified access port with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states.”

Response to Examiner's Response to Arguments

At paragraph 3 of the Final Office Action, the Examiner specifically responded to the Applicant's previous arguments. The Applicant appreciates such specific comments and would like to address the comments here.

The Examiner commented at paragraph 3 that "[r]egarding to applicant's argument on page 14, Gia fails to teach 'configuring one or more access ports as rapid forwarding ports'. In response examiner would like to direct applicant's attention to col. 11 lines 8-15."

Col. 11, lines 8-15 of Gia reads in full:

Significantly, for each access switch 114-116, only one port (local or trunk) that represents a path from the access switch to the root (i.e., provides connectivity to the root through links, shared media, switches, etc.) will be forwarding. All other ports (local or trunk) that represent paths from the access switch to the root will be blocked. In other words, only one port at each access switch 114-116 that provides connectivity to the root will be forwarding.

This portion of Gia simply describes placing a port in the forwarding state, and is silent concerning the Applicant's special "***rapid forwarding port***" designation. The Applicant teaches a special designation for access ports which causes so designated access ports to transition more rapidly to the forwarding state than is generally the case for access ports without such a designation. Specifically, the Applicant first configures one or more access ports as rapid forwarding ports, and later places "***each identified access port with rapid forwarding directly to a forwarding spanning tree port state.***" Gia is silent concerning a ***rapid forwarding port*** designation or much less its use in this manner.

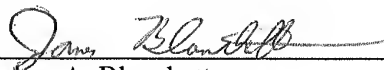
In the event that the Examiner deems personal contact desirable in disposition of this case, the Examiner is encouraged to call the undersigned attorney at (617) 951-2500.

In summary, all the independent claims are believed to be in condition for allowance and therefore all dependent claims that depend there from are believed

to be in condition for allowance. The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,


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